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EXHIBIT 1
. Page 3 of 3

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.

09/808,898

Confirmation No. 4894

Applicant Filed Bruce Bryan March 15, 2001

Title:

RENILLA RENIFORMIS FLUORESCENT PROTEINS, NUCLEIC ACIDS ENCODING THE FLUORESCENT

PROTEINS AND THE USE THEREOF IN DIAGNOSTICS, HIGH THROUGHPUT SCREENING AND NOVELTY

ITEMS

TC/A.U.

1653

:

Examiner

Samuel W. Liu

Docket No.

LUME 48487

Customer No. :

29694

PETITION FOR REVIVIAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR § 1.137(b)

VIA FACSIMILE - (571) 273-8300

May 18, 2006

Mail Stop – PETITION Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

Sir:

Applicants hereby petition for withdrawal of the holding of abandonment of this application. The Notice of Abandonment mailed March 20, 2006 states that Applicants failed to timely pay the issue fee and publication fee for this case. Specifically, the Notice states that the issue fee and publication fee were not received by the U.S. Patent and Trademark Office, but did not indicate the deposit account contained an insufficient balance at the time of processing the request.

Attached hereto as Exhibit 1 is the fax confirmation sheet from the U.S. Patent and Trademark Office and Fee Transmittal Sheet showing that Applicants submitted the Issue Fee transmittal along with the authorization for the USPTO to charge the \$1,400.00 issue fee and the \$300.00 publication fee required by 37 C.F.R. § 1.18 to the U.S. Patent and Trademark Office on July 12, 2005. Exhibit 2 is a copy of a Request for Status submitted January 13, 2006. Exhibit 3 is the Notice of Abandonment mailed March 20, 2006. Exhibit 4 is a Petition submitted March 27, 2006 Under 37 C.F.R. § 1.181 requesting Withdrawal of

992234

Page 1 of 2

1500.00

Holding Abandonment and resubmitting the Fee Transmittal Sheet originally submitted July 12, 2005. The Petition was submitted to the Office of Petitions at the direction of Kim Diep. On May 11, 2006 Applicants' representative contacted the Petitions Office regarding status of the Petition. Applicants' representative spoke with Ms. Lewis who informed Applicants' representative that the reason for the abandonment of application was insufficient funds in the Deposit Account. Ms. Lewis forwarded Applicants' representative to Mr. Thomas E. Hawkins indicated a Dismissal of the Petition would be mailed and that Applicants' representative could file the present Petition for Revival for Unintentional Abandonment pursuant to 37 C.F.R. § 1.137(b) once the Dismissal was received. Exhibit 5 is a copy of the Dismissal of the Petition received May 15, 2006.

Applicant's failure to timely pay the issue fee was unintentional because Applicant was not aware that there were insufficient funds in the Deposit Account.

Accompanying this Petition is PTO/SB/64 authorizing the issue fee (\$1,400.00), publication fee (\$300.00) and the Petition Fee (\$1,500.00) to be charge to Deposit Account No. 500859. A new Part B-Fee(s) Transmittal Sheet (PTOL-85) is also included.

Withdrawal of the Notice of Abandonment and issuance of the patent are respectfully requested.

Respectfully submitted,

Lara A. Northrop

Registration No. 55,502

Pietragallo, Bosick & Gordon ILP

One Oxford Centre, 38th Floor

301 Grant Street

Pittsburgh, PA 15219

Attorney for Applicants

(412) 263-4362

RECEIVED
CENTRAL FAX CENTER
MAY 1 8 2006

PIETRAGALLO, BOSICK & GORDON LLP

Attorneys at Law
301 Grant Street
One Oxford Centre, 38th Floor
Pittsburgh, PA 15219-6404
Telephone Number: (412) 263-2000
Direct Fax: (412) 261-0915

FACSIMILE TRANSMISSION COVER PAGE

DATE:

May 18, 2006

RECIPIENT:

Mail Stop - PETITION

COMPANY:

U.S. Patent and Trademark Office

RECIPIENT'S FAX NO .:

(571) 273-8300

FROM:

Lara A. Northrop

FILE NUMBER:

LUME 48487 (LUME-128)

NUMBER OF PAGES

(including cover page):

24

MESSAGE: RE: USSN 09/808,898; Filed March 15, 2001

Petition for Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR § 1.137(b), Exhibits 1-5,

PTO/SB/64, PTOL-85

SENT BY:

S. Cranmer-Jervis TELEPHONE NUMBER: 412-263-2000 ext. 1253

CONFIRMATION COPY:

VIA U.S. MAIL
VIA AIR MAIL

VIA INTERNATIONAL FEDERAL EXPRESS

NONE

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THE MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS, VIA THE U.S. POSTAL SERVICE. THANK YOU.

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Auto-reply fax to 14122610915 COMPANY:

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EXHIBIT 1 Page 1 of 3

Auto-Reply Facsimile Transmission



TQ:

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ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

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SENT VIA FACSIMILE TO (571) 273-2885

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January 13, 2006 Reg. No. 155 Co.	Fee Attached Amendment/Reply After Final After Final After Final After Final Extension of Time Required Express Abandonment if Information Disclosure S Cartifled Copy of Priority Document(s) Reply to Missing Parts/ Incomplete Application Reply to Missing Reply to Missing Priority District Firm Name Pietragallo, Ed Signeture Printed name Lara A. Norther	Parts Signature of	icensing-related Papers estition estition to Convert to a revisional Application ower of Attorney, Revoca nange of Correspondence erminal Disclaimer equest for Refund D, Number of CD(s) Landscape Table on	Address CCO		of Appeals and Interferences Appeal Communication to TC (Appeal Nodee, Brief, Reply Brief) Proprietary Information Status Letter Other Enclosure(s) (please Identify below):

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FORM	First Named Inventor	Влисс Өгүвл		
	Art Unit	1853		
(to be used for all correspondence after initial	Examiner Name	Samuel W. Liu	_	
Total Number of Pages in This Submission	2 Attorney Docket Number	LUME-48487		
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Fee Attached	Licensing-related Papers			a) Communication to Board peals and Interferences
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I hereby certify that this correspondence is be sufficient postage as first class mail in an envi the date shown below;	aing facsimile transmitted to the USPTO relope addressed to: Commissioner for P	or deposited will Patents, P.O. Box	h the Un c 1450, /	ited States Postal Service with Alexandria, VA 22313-1450 on
Signature ///	W. L. AMH			
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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to fite (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the inclinidate lass. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Yrademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS, SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

EXHIBIT 2 . Page 3 of 3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.

09/808,898

Applicant

Bruce Bryan

Filed

03/15/2001

Title:

Renilla Reniformis Fluorescent Proteins, Nucleic Acids Encoding

the Fluorescent Proteins and the Use Thereof in Diagnostics, High

Throughput Screening and Novelty Items

TC/A.U.

1653

Examiner

Samuel W. Liu

Confirmation No.

4894

Docket No.

LUME-48487

REQUEST FOR STATUS

January 12, 2006

<u> Facsimile No. 571 - 273-2885</u> Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

The captioned patent application was allowed on April 12, 2005. We paid the Issue Fee and Publication Fee on July 12, 2005. Since then, Applicant has not received an Issue Notification. Applicant respectfully requests a communication from the Patent and Trademark Office concerning the status of this allowed application.

Respectfully submitted,

Laza A. Northrop, Esq.

Attorney for Applicant(s) Registration No. 55,502

Pietragallo, Bosick & Gordon LLP

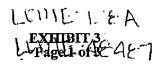
One Oxford Centre, 38th Floor

301 Grant Street

Pittsburgh, PA 15219

Telephone No.: (412) 263-4362 Facsimile No.: (412) 261-0915

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address COMMISSIONER FOR PATENTS P.O. flux 1430 Atlantics, Virginia 22313-1450

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/808,898	03/15/2001	Bruce Bryan	LUME 48487	4894
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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

EXHIBIT 3
-Page 2 of 3

	Application No.		
		Applicant(s)	
Notice of Abandonment	09/808,898 Examiner	BRYAN	
	Examiner	Art Unit	
- The MAII ING DATE of this somewhat	LIU	1653	
- The MAILING DATE of this communication :	appears on the cover sheet with t	the correspondence at	ddress—
This application is abandoned in view of:			
 Applicant's failure to timely file a proper reply to the Office (a) A reply was received on (with a Certificate of period for reply (including a total extension of time (b) A proposed reply was received on but it do (A proper reply under 37 CFR 1.113 to a final reject application in condition for allowance; (2) a timely final replacement of the continued Examination (RCE) in compliance with 3 	of Malling or Transmission dated of month(s)) which expired les not constitute a proper repty unc tion consists only of (1) a timely fik	on der 37 CFR 1.113 (a) to	the final rejection.
(c) A reply was received on but it does not cons			
final rejection. See 37 CFR 1.85(a) and 1.111. (See (d) ☐ No reply has been received.	ee explanation in box 7 below).		·31 — (iii iidi)
 Applicant's failure to timely pay the required issue fee a from the mailing date of the Notice of Allowance (PTOL (a)	vas received on (with a Certy period for payment of the issue feet of \$1700 is due. The publication fee, if required by a not been received.	rificate of Mailing or The (and publication fee) s 37 CFR 1.18(d), is \$300 of period set in, the No	ansmission dated et in the Notice of
(a) Proposed corrected drawings were received on after the expiration of the period for reply.	(with a Certificate of Malling or 1	Transmission dated), which is
(b) ☐ No corrected drawings have been received.			
The letter of express abandonment which is signed by t the applicants.	the attorney or agent of record, the	assignee of the entire in	iterest, or all of
 The letter of express abandonment which is signed by a 1.34(a)) upon the filing of a continuing application. 	an attorney or agent (acting in a rep	presentative capacity un	der 37 CFR
The decision by the Board of Patent Appeals and Interfer of the decision has expired and there are no allowed da	erence rendered on and bec sime.	ause the period for seek	ing court review
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editions to revive under 37 CFR 1.137(a) or (b), or requests to willhadd Inimize any negative effects on patent term. Pateal and Trademark Office.	raw the holding of abandoom ent under;	37 CFR 1.181, should be ρ	romptly filed to
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EXHIBIT 3 Page 3 of 3

Attachment to Notice of Abandonment

For questions concerning the notice contact Office of Patent Publication Image Assistance Center: 888-786-0101.

Information is also available on the USPTO Internet web site: http://www.uspto.gov/web/patents/pubs/abandonnotice.html

Respond to the Notice of Abandonment by one of the following:

1. Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition nader 37 CFR \$ 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing 37 CFR § 1.10 "Express Mail" mailing or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows: By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 By facsimile: 703-872-9306

2. Petition To Withdraw Holding Of Abandonment Based On Faskure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 By mail:

By facsimile: 703-872-9306

3. Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: http://www.uspto.gov.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows: By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 By facsimile: 703-872-9306

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment

Auto-reply fax to 141226109:

COMPANY:

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EXHIBIT 4
Page 1 of 7

Auto-Reply Facsimile Transmission



TO:

Fax Sender at 14122610915

Fax Information

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113,25,7008 11.65 FAI 141520100[3 PIETRAGALLO, BOSICK & GORDON L. Allegreys at Law 301 Grant Street One Outland Concre, 18th Fig. Cate Ostard Centre, 13" Floor
Pustburgh, PA. 15219-6404
Telephane Number: (412) 263-2500
Direct Fax. (412) 261-09;5 PACSIMULE TRANSMISSION COVER PAGE March 27, 2006 RECIPIENT: Issue Fee U.S. Pateur and Trademark Office COMPANY: RECIPIENTS PAY NO. (571) 273-6390 FROM: Late A Northrop CAN FLE MINIBER LUME 43457 (128-A) MAMBER OF PACES (काटोबर्सागड का**पर**/ क्षेत्रको: MESSAGE RP: USSN 09806,596; Filed Murch 15, 2001
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EXHIBIT 4 Page 2 of 7

PIETRAGALLO, BOSICK & GORDON LLP

Attorneys at Law
301 Grant Street
One Oxford Centre, 38th Floor
Pittsburgh, PA 15219-6404
Telephone Number: (412) 263-2000
Direct Fax: (412) 261-0915

FACSIMILE TRANSMISSION COVER PAGE

DATE:

March 27, 2006

RECIPIENT:

Issue Fee

COMPANY:

U.S. Patent and Trademark Office

RECIPIENT'S FAX NO .:

(571) 273-8300

FROM:

Lara A. Northrop LAN

FILE NUMBER:

LUME 48487 (128-A)

NUMBER OF PAGES

(including cover page):

6

MESSAGE: RE: USSN 09/808,898; Filed March 15, 2001

Petition (2 pgs); Copy of USPTO Fax Confirmation Sheet (1pg) Copy of Transmittal Sheet (1 pg); Copy of Fee Sheet (1 pg)

SENT BY:

S. Cranmer-Jervis TELEPHONE NUMBER: 412-263-2000 ext. 1253

CONFIRMATION COPY:

☐ VIA U.S. MAIL	☐ VIA INTERNATIONAL FEDERAL EXPRESS
🔲 VIA AIR MAIL	NONE

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THE MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS, VIA THE U.S. POSTAL SERVICE. THANK YOU.

964178

EXHIBIT 4
-Page 3 of 7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.

09/808,898

Confirmation No. 4894

Applicant Filed

Bruce Bryan March 15, 2001

Title:

RENILLA RENIFORMIS FLUORESCENT PROTEINS, NUCLEIC ACIDS ENCODING THE FLUORESCENT PROTEINS AND THE USE THEREOF IN DIAGNOSTICS,

HIGH THROUGHPUT SCREENING AND NOVELTY

ITEMS

TC/A.U.

1653

Examiner

Samuel W. Liu

Docket No.

LUME 48487

Customer No.

29694

PETITION UNDER 37 CFR 1.181 REQUESTING WITHDRAWAL OF HOLDING OF ABANDONMENT

VIA FACSIMILE - (571) 273-8300

Mail Stop – Issue Fee Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

March 27, 2006

Sir:

Applicants hereby petition for withdrawal of the holding of abandonment of this application. The Notice of Abandonment mailed March 20, 2006 states that Applicants failed to timely pay the issue fee and publication fee for this case. Specifically, the Notice states that the issue fee and publication fee were not received by the U.S. Patent and Trademark Office.

Attached hereto as Exhibit 1 is the fax confirmation sheet from the U.S. Patent and Trademark Office showing that Applicants submitted the issue fee to the U.S. Patent and Trademark Office on July 12, 2005. Attached as Exhibit 2 is a copy of the Fee Transmittal Sheet submitted July 12, 2005 evidencing that the \$1,400.00 issue fee and the \$300.00 publication fee required by 37 C.F.R. 1.18 was authorized to be withdrawn from the Applicant's Deposit Account.

964157

Page 1 of 2

EXHIBIT 4
. -Page 4 of 7

Withdrawal of the Notice of Abandonment and issuance of the patent are respectfully requested.

Respectfully submitted,

Lara A. Northrop

Registration No. 55,502

Pietragallo, Bosick & Gordon LLP One Oxford Centre, 38th Floor

301 Grant Street

Pittsburgh, PA 15219

Attorney for Applicants

(412) 263-4362

Page 5 of 7

Auto-Reply Facsimile Transmission

TO:

Fax Sender at 14122610915

Fax Information Date Received:

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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Paterill and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450, DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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FEE CALCULATION		·					
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This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USFTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including galhering, preparing, and submitting the completed application form to the USFTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief information Officer, U.S. Patent and Tradymark Office, U.S. Department of Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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FILE ON CP Page 1 of 2

UNITED STATES PATENT AND TRADEMARK OFFICE

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Director's Or La Office of Patent Publication

PIETRAGALLO, BOSICK & GORDON ONE OXFORD CENTRE, 38TH FLOOR 301 GRANT STREET PITTSBURGH, PA 15219-6404

In re Application of BRYAN, BRUCE, et al. \(\sqrt{Application No. 09/808,898 \(\sqrt{Filed} \): March 15, 2001 \(\sqrt{Attorney Docket No. LUME 48487 \)

DECISION ON PETITION

Die July 12

This is a decision on the Petition Under 37 CFR 1.181 Requesting Withdrawal Of Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) on March 27, 2006.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due, mailed May 4, 2005. The Notice of Abandonment mailed March 20, 2006, indicates that the submitted fee of \$0 is insufficient. A balance of \$1,700 is due.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on July 12, 2005, authorizing that the Issue Fee be charged to Deposit Account No. 50-0859. Unfortunately, on July 12, 2005, when an attempt was made by the Office of Finance to charge the fees, there was an insufficient fund in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

1.25 (b) ... An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

Application No. 09/808,898

Page 2

EXHIBIT 5
Page 2 of 2

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an unavoidable abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an unintentionally abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail:

Mail Stop <u>Petitions</u>
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 137.

Thomas E. Hawkins

Paralegal Specialist
Office of the Director

Office of Patent Publications

Thomas & Danker

PTO/SB/64 (10-05)
Approved for use through 07/31/2006, OMB 0651-0031
S Parent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMS control number. Docket Number (Optional) PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT **LUME 48487** ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) First named inventor: Bruce Bryan Application No.: 09/808,898 Art Unit: 1653 Filed: 03/15/2001 Examiner: Samuel W. Liu Title: RENILLA RENIFORMIS FLUORESCENT PROTEINS, NUCLEIC ACIDS ENCODING THE FLUORESCENT PROTEINS AND THE USE THEREOF IN DIAGNOSTICS, HIGH THROUGHPUT SCREENING AND NOVELTY ITEMS Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 FAX (571) 273-8300 NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282. The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained. APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION NOTE: A grantable petition requires the following items: (1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and (4) Statement that the entire delay was unintentional. 1.Petition fee |Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27. Other than small entity – fee \$ 1,500.00 (37 CFR 1.17(m)) 2. Reply and/or fee A. The reply and/or fee to the above-noted Office action in the form of Petition For Revival Of An Application For Patent Abandoned (identify type of reply): Unintentionally Under 37 C.F.R. § 1.137(b) has been filed previously on _ is enclosed herewith. B. The issue fee and publication fee (if applicable) of \$ 1,700,00 has been paid previously on _ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the Individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce. P.O. By 1450, Alexandria, VA 22313-1450, DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SP/84 (10-05) Approved for use through 07/31/2006, OMB 0651-0031 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid QMB control number. Terminal disclaimer with disclaimer fee Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required. A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63). 4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c). subsections (III)(C) and (D)).] **WARNING:** Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identify theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available. May 18, 2006 Signature Date Lara A. Northrop 55,502 Typed or printed name Registration Number, if applicable One Oxford Centre, 38th Floor - 301 Grant Street 412-263-4362 Address Telephone Number Pittsburgh, PA 15219 Address Enclosures: 🗸 Fee Payment Reply -Payment of Issue/Publication Fees Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)] I hereby certify that this correspondence is being: Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300. May 18, 2006 Date Signature Susan Cranmer-Jervis Typed or printed name of person signing certificate

[Page 2 of 2]

PART B - FEE(S) TRANSMITTAL

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